

Policy & Procedure - Council Acceptance of Gifts, Benefits and Hospitality 2021

Date amended:	January 2021
Date of next review:	January 2025
Adopted by:	Council
Date adopted:	16 February 2021
Responsible officer:	Director Corporate & Community Services
Relates to Policy:	Governance Rules Fraud & Corruption Control
References:	Appendix A – Quick Reference Guide Appendix B – Gifts Registration Form

1 PURPOSE

The purpose of this Policy is to outline the Pyrenees Shire Council's position on Councillors and Council staff acceptance and response to offers of gifts, benefits and hospitality.

This Policy supports Councillors and Council staff in avoiding conflicts of interest and maintaining high levels of integrity, accountability and public trust.

1.1 Policy objectives

The objectives of this Policy are to:

- provide clear direction and guidance to Councillors and Council staff on offers of gifts, benefits and hospitality that may be accepted and those that may not,
- detail processes for the acceptance of gifts, benefits and hospitality,
- ensure that members of the Pyrenees community and other key stakeholders have full confidence in the performance standards, conduct and integrity of Councillors and Council staff, as it relates to the acceptance of gifts, benefits and hospitality,
- protect the sensitivities of external individuals who may wish to offer genuine tokens of appreciation and gratitude, and
- support Council policy in the prevention of fraud and corruption.

2 SCOPE

This Policy applies to all Councillors and Council staff / officers at the Pyrenees Shire Council and operates in conjunction with any prevailing adopted Councillor and Council staff Codes of Conduct and is implemented in accordance with sections 137 and 138 of the *Local Government Act 2020*.

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2.1 Individual responsibility

Councillors and Council staff must acknowledge and accept their own individual responsibilities for decisions and actions – as individuals and as part of an organisation.

Councillors and Council staff must exercise care and discretion when being offered gifts, benefits and hospitality, and ensure that there is no conflict of interest associated with accepting such offerings – actual or perceived.

2.2 Exceptions

This Policy and Procedure does not apply in the following instances:

- Council-related events: the attendance and participation of Councillors and Council staff at Council sponsored events is often an expectation of respective roles.
- Council-funded events / tickets.

In some circumstances, at the discretion of and approval by the Chief Executive Officer, a Councillor or Council staff member may attend an event if the Council either fully reimburses the host organisation for the full cost of hospitality, or if the Councillor or staff member personally pays for their own attendance.

3 WHEN OFFERS MUST NOT BE ACCEPTED OR SOUGHT

- Generally, individuals must not seek or accept any offer of gifts, benefits or hospitality in response to services or activities they perform in connection with their Council position or employment, from anyone who could benefit by influencing them in their official capacity. Included in this category are gifts in kind (e.g. free or discounted accommodation, meals, travel or entertainment), which go beyond common courtesies consistent with ethical and accepted business practices.
- A Councillor or Council staff member must not use his or her position, knowledge, contacts or influence to extract, demand, intimidate, cajole or coerce any supplier, customer or competitor of Council to provide or offer any gift, benefit, hospitality or gratuity to them or any other person.
- No offer of a gift, benefit or hospitality – no matter how small or insignificant, can be accepted from any tenderer or person / organisation involved in a tender process with Council.
- Where it is determined that an offer will create a conflict of interest – actual or perceived.
- Council staff, except for the CEO, must not accept offers of hospitality of a greater value than modest networking or speaking opportunities at conferences, without discussion with the relevant director or CEO. Offers above this level of value can be perceived to be inducements or leading to conflicts of interest.
- The following offers of gifts, benefits, hospitality or gratuities must not be accepted under any circumstances:
 - Monetary gifts, cash or cash equivalents (e.g. gift cards),
 - offers from an anonymous source above an estimated value of \$500.00 in respect of a Councillor or CEO, or \$100.00 in respect of any other member of Council staff,
 - shares or the opportunity to acquire discounted shares in any supplier, customer or competitor of the Pyrenees Shire Council,

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- iv. any offer to purchase goods or services from any supplier, customer or competitor of Council, on terms more favourable than available in the normal course of business,
- v. a series of gifts from a single source with a significant cumulative value,
- vi. gifts given in the context of a regulatory, inspectorial, oversight or similar relationship,
- vii. where gifts are offered selectively to individuals within a work group or in a secretive fashion.

All the above principles extend to offers of gifts, benefits and hospitality extended to a Councillor's or Council staff member's family.

3.1 Managing inappropriate offers / bribes

If a Councillor or Council staff member feels they have been offered a gift, benefit or hospitality as an attempt to induce or influence a favourable decision or outcome, they should report this immediately:

- Councillors and the CEO should report such offers to the Mayor
- Council staff should report such offers to their Director

If an offer is considered inappropriate, but cannot be declined or returned without offense to the giver (e.g. cultural reasons), or if a refusal has the potential to damage Council's relationship, then it may be received but must be relinquished to the ownership of the Pyrenees Shire Council in accordance with section 4 of this Policy.

If a Councillor or Council officer believes they have been offered a bribe, it is important to immediately act to minimise any potential for negative consequences, by taking the following steps:

- a) Terminate the interaction with the person,
- b) Make a clear record of the events surrounding the specific situation,
- c) Report the matter –
 - A Councillor should report the matter to the Mayor who will consult with the CEO,
 - The CEO should report the matter to the Mayor,
 - A Council officer should report the matter to their respective director who will consult with the CEO,
 - A director should report the matter to the CEO.
- d) Where the circumstances fall within the parameters of the *Protected Disclosures Act*, notification should be made to the Director Corporate & Community Services.

4 PROCEDURE – ACCEPTANCE OF OFFERS

An individual must only accept a gift, benefit or hospitality where that offer meets the following conditions:

- a) the offer does not exceed a value of \$500.00 on the part of a Councillor or CEO, or \$100.00 on the part of any other member of Council staff,
- b) the offer does not have the potential to instigate a conflict of interest on the part of the individual receiving the offer – actual or perceived,

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- c) the offer is not made by an individual or organisation in the process of entering a tender process with Council, or may in the foreseeable future enter a tender process with Council, or
- d) the offer is not made to a Councillor or Council staff member who is likely to be a decision-maker regarding any matter that might result in a benefit to the person or organisation making the offer.

4.1 Accepting an offer

A Quick Guide to accepting an offer is available at [Appendix A](#).

Where an offer is considered appropriate and does not cause an actual or perceived conflict of interest, the person accepting the offer should:

- a) Accept the offer with thanks, ensuring that the person making the offer understands that the acceptance is without any conditions, actual or inferred,
- b) If the offer is above the registration threshold amount:
 - i. Determine what will be done with the gift, benefit or hospitality once accepted (i.e. retained personally, shared with colleagues, provided to Council as an organisation, or declined), and
 - ii. Register the acceptance of the offer with the EA to the CEO & Councillors using the form attached as [Appendix B](#).

4.1.1 Guidance on acceptance considerations

Examples of when offers of gifts, benefits or hospitality may be accepted and how is provided below:

- Token gifts provided at conferences or in recognition of providing a presentation may be accepted if they do not exceed an estimated total value in excess of \$50.00. e.g. branded pens, USBs, wine, books. Such gifts do not represent a conflict of interest and need not be declared.

Where individual items are estimated as valued above the registration threshold amount, these must be declared and registered.

- Individual offers above the registration threshold amount of \$50.00, up to a maximum value of \$500.00 for Councillors and the CEO, and \$100.00 for other Council staff, may be accepted providing that the acceptance is declared and registered. E.g. wine, pens, books, t-shirts, coffee and meals.
- Offers with an estimated value in excess of \$500.00 for Councillors and the CEO, and \$100.00 for other staff, must be discussed (Councillors or CEO with the Mayor, staff with their relevant Director or CEO) to receive direction on whether the offers may be accepted. If approval is provided, detail of the acceptance must be registered in accordance with section 5 of this Policy.
- It is recommended that offers of hospitality should be discussed (Councillors or CEO with the Mayor, staff with their relevant director, directors with the CEO) prior to accepting the invitation. As the value of hospitality is often difficult to estimate, care and discretion must be exercised in determining if an inducement is intended and whether acceptance is appropriate.

It is generally recommended that offers of hospitality to Council staff (other than the CEO) of a greater value than a token amount (i.e. above \$50.00) should not be accepted.

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It is acknowledged that some offers of hospitality may be in reference to the receipt of government direction or information. Such offers can be accepted but must be registered.

- Where hospitality is provided (e.g. payment for a meal) in circumstances where a Councillor or staff member is unable to discuss in advance, registration should take place as soon as possible afterwards.

4.2 Threshold amounts

Registration threshold amount means the value, set by Council, under which offers of gifts, benefits or hospitality may be accepted without declaration or registration.

this amount is currently set by Council as \$50.00.

Gift disclosure threshold amount means the value, set by the *Local Government Act 2020*, over which offers of gifts, benefits or hospitality made to Councillors must:

- be discussed with the Mayor prior to acceptance,
- not be accepted from anonymous donors, and
- must be registered on the gifts register.

this amount is currently set by the Act as \$500.00.

regarding Council staff, this amount has been set by Council as \$100.00.

where an offer to Council staff is estimated to be in excess of this value (\$100.00):

- discuss with the relevant director prior to acceptance,
- must not be accepted from anonymous donors, and
- must be registered on the gifts register.

4.3 Token gifts, benefits and hospitality

From time to time, Councillors or members of Council staff may receive token gifts, benefits or hospitality as part of normal community or business relationships. Token offers may include souvenirs, mementos and other items of low material value, or moderate acts of hospitality when meeting with organisations.

It is expected that such token gifts, benefits or hospitality will be below the registration threshold amount currently set at \$50.

This type of offer need not be regarded as a conflict of interest, unless included within section 3 of this Policy, and need not be declared. However, a continuing pattern of such token offers may constitute a conflict of interest and, if in doubt, Councillors or staff should seek guidance before acceptance.

4.4 Official gifts

A gift presented to a Councillor or staff member as representatives of the Council should be accepted and retained by the organisation.

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5 PROCEDURE – DECLARATION AND REGISTRATION

5.1 Offers below an estimated value of \$50.00

Where a one-off gift, benefit or hospitality is below the registration threshold amount of \$50.00, this need not be disclosed or registered.

If continued offers are made within a 12-month period from an individual donor, where the cumulative estimated value is above \$50.00, these should be disclosed and registered even if the individual values are below \$50.00.

5.2 Offers between \$50.00 and the gifts threshold amount

Offers between \$50.00 and the gift disclosure threshold amounts of \$500.00 for Councillors and CEO, and \$100.00 for other staff must be disclosed and registered.

This can be done by completing the registration form attached as [Appendix A](#) and submitted to the EA to the CEO & Councillors (Jane Bowker) within 10 working days of acceptance. All parts of the form should be completed.

Where guidance is needed on the acceptance of offers, Councillors or CEO should discuss this with the Mayor and other staff should discuss this with their relevant director, directors with the CEO.

5.3 Offers above the gifts threshold amount

Offers above the gifts threshold amounts of \$500.00 for Councillors and CEO, and \$100.00 for other staff must be discussed prior to acceptance, to determine whether the offer should be accepted and what should be done with the offer if accepted.

Councillors or the CEO should discuss this with the Mayor and, directors should discuss this with the CEO and other staff with their relevant director.

Consideration of offers above the gifts threshold amounts should include:

- Should the offer be accepted or declined?
- If accepted, is it appropriate for the gift, benefit or hospitality to be retained by the individual Councillor staff member?
- If not considered appropriate to be retained by the individual, but should still be accepted, how should the gift, benefit or hospitality offer be used? For example:
 - Can it be shared among colleagues or all Councillors?
 - Can it be used as a prize or re-gifted for another purpose?
 - Should it be retained as the property of Council as an entity and displayed?

Gifts of cultural relevance should be considered whether to retain as the property of Council, unless of personal significance to the receiver.

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6 GIFTS REGISTER

- a) The Gifts Register will be maintained by the EA to CEO and Councillors (the EA).
- b) All offers of gifts, benefits and hospitality above the value of \$50.00 received by Councillors or Council staff will be registered on the Gifts Register by submission of a [Gifts Registration Form](#) to the EA.
- c) All Gifts Registration Forms must be completed and submitted within 10 working days of an offer.
- d) The EA will monitor compliance to this Policy by checking forms and following-up where discussions should be undertaken by Councillors and CEO with the Mayor, or Council staff with the relevant Director / CEO by:
 - i. Referring the registration form back to the relevant Councillor or staff member and advising them of the requirement to discuss the matter, and
 - ii. Advising the Mayor, CEO or relevant director as appropriate of the referral.
- e) A public summary of the Gifts Register will be maintained on Council's website by the EA.
- f) The public summary will include:
 - i. Offers made over \$50.00 to any Councillor or member of the Executive Leadership Team,
 - ii. Offers made over the gifts disclosure threshold amount (\$100.00) for any other member of Council staff.
- g) The public summary will include the following information:
 - i. The position of the Councillor or member of staff,
 - ii. The details of the gift, benefit or hospitality offer,
 - iii. The value of the gift, benefit or hospitality offer,
 - iv. Details of the person or organisation making the offer,
 - v. Whether the offer was accepted, and
 - vi. Any other information considered appropriate by the CEO or relevant director – e.g. if the gift was accepted by the Council as an organisation and not by the individual.

6.1 Inspection and monitoring of the Gifts Register

The Gifts Register may be subject to scrutiny by members of the public in accordance with the Freedom of Information Act.

Managers may access the full Gifts Register through request to the EA, for review of gifts received by members of their staff and monitoring for compliance and levels of integrity.

On a quarterly basis, the Director of Corporate & Community Services will conduct analysis of the register against standards of conduct and integrity.

7 DEFINITIONS

- Act** Means the *Local Government Act 2020*.
- Benefit** Something that is of value to the receiver but not a tangible item, e.g. invitations to sporting, cultural or social events, access to discounts or

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loyalty programs, access to confidential information, accommodation or holidays.

Conflict of interest The term ‘conflict of interest’ refers to a situation where a conflict arises for an individual between two competing interests which are often, but not always, interest of public duty versus private interests.

Conflicts of interest can involve financial or non-financial interests of the Councillor / staff member and the interests of a business partner or associate, family member, friend or a person with / or has had a close personal relationship with the Councillor or staff member.

Actual conflict of interest: where a conflict between private and Council interests does exist and the individual needs to either step down or management steps taken to eliminate the conflict of interest.

Potential conflict of interest: where a conflict between private and Council interests does not currently exist but may develop if not carefully managed.

Perceived conflict of interest: where a conflict of interests may not / does not exist, but it could be perceived by others (internally or externally) that a conflict of interest exists. This also needs to be management

Gifts Register A register that captures all offers of gifts, benefits and hospitality over \$50.00 in value, received, accepted and declined by Councillors and Council staff.

The register is maintained by the EA to the CEO & Councillors.

A public summary of the register is maintained on Council’s website relating to offers made to:

- Councillors and members of the Executive Leadership Team, and
- Where a gift above the gift disclosure threshold amount for Council staff (\$100.00) is accepted by any other staff member.

Gift Defined by the *Local Government Act 2020* as “any disposition of property otherwise than by will made by a person to another person without consideration in money or money’s worth or with inadequate consideration, including –

- a) the provision of a service (other than volunteer labour), and
- b) the payment of an amount in respect of a guarantee, and
- c) the making of a payment or contribution at a fundraising function.”

Hospitality The friendly reception and entertainment of guests that might range from light refreshments at a business meeting to expensive restaurant meals and sponsored travel or accommodation.

Monetary gift Means cash, gift cards, cheques, direct deposits or other financial facility that would financially benefit the receiver or a member of their family.

Official gift A gift presented to a Councillor or Council officer as representatives of the Council.

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May be from a Sister City, organisation or corporate bestowing a corporate gift (e.g. plaques, plates, trophies, artworks) or as a token of appreciation for a contribution to a conference or industry event.

Token gift

A gift, benefit or hospitality offered as courtesy or is inconsequently or trivial in value (<\$50.00) to both the person making the offer and the individual.

Such gift would not be reasonably perceived within or outside the Pyrenees Shire Council as influencing a Councillor or staff member or raising an actual, potential or perceived conflict of interest.

Excludes cumulative offers from the same source over a 12-month period.

Value

Means the face value or estimated retail value.

8 NON-COMPLIANCE

Any non-compliance with this Policy and Procedure may be subject to consequences included within the Councillor and Staff Codes of Conduct as appropriate.

9 REFERENCE & RELATED DOCUMENTS

- *Local Government Act 2020*
- *Council's Governance Rules 2020*
- *Council's Fraud & Corruption Policy & Procedure*
- *Council's Conflict of Interest Procedure*
- *Councillor Code of Conduct*
- *Employee Code of Conduct*

9.1 Consultation and impact

Pyrenees Shire Council is committed to consultation and cooperation between management and its employees. Development of this procedure was conducted in consultation with relevant staff and consultative committees prior to approval. It is considered that this procedure does not impact negatively on the rights identified in the Charter of Human Rights and Responsibilities (2007).

10 VERSION HISTORY

Version Number	Issue date	Description of change
1.0	2015	Initial release
2.0	June 2017	Review
3.0	February 2021	Full review – change of legislation

10.1 Document Review

This document will be reviewed on a 4-year cycle or before subject to legislative change.

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11 APPENDIX A – Quick Guide to Acceptance & Registration

The GIFT¹ test is a reminder of what to think about when deciding whether to accept or decline an offer of a gift, benefit or hospitality:

G	Giver	<i>Who is providing the gift, benefit or hospitality and what is their relationship to you?</i> Could the person or organisation benefit from a decision you make?
I	Influence	<i>Are they seeking to influence my decisions or actions?</i> Has the gift, benefit or hospitality been offered to me publicly or privately? Does its timing coincide with a decision I am about to make?
F	Favour	<i>Are they seeking a favour in return for the gift, benefit or hospitality?</i> Has the gift, benefit or hospitality been offered honestly? Would accepting it create an obligation to return a favour?
T	Trust	<i>Would accepting the gift, benefit or hospitality diminish public trust?</i> How would the public view acceptance of this gift, benefit or hospitality? What would my colleagues, family or associates think?

The sections below give quick guidance on whether to accept an offer and whether it should be submitted to the gifts register:

Gifts & Benefits		Yes	No
Token gift - <\$50.00 value	Can the offer be accepted?	✓	
	Can the offer be accepted multiple times from the same person within a 12-month period?		✓
	Must the offer be registered on the Gifts Register?		✓
	Must the offer be included on the Public Summary of the Gifts Register?		✓
Councillors and CEO: Offer >\$50.00 & <\$500.00 value	Can the offer be accepted?	✓	
	Must the offer be registered on the Gifts Register?	✓	
	Must the offer be included on the Public Summary of the Gifts Register?	✓	
Directors and other Council staff: Offer >\$50.00 & <\$100.00 value	Can the offer be accepted?	✓	
	Must the offer be registered on the Gifts Register?	✓	

¹ Acknowledgement to the City of Whitehorse for this test section.

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Gifts & Benefits		Yes	No
	Must the offer be included on the Public Summary of the Gifts Register – if received by a member of the Executive Leadership Team?	✓	
Councillors and CEO: Offer >\$500.00 value	Must the offer be discussed with the Mayor before acceptance?	✓	
	Can the offer be accepted (in accordance with Policy)?	✓	
	Can the offer be accepted from an anonymous source?		✓
	Must the offer be included on the Public Summary of the Gifts Register?	✓	
Directors and other Council staff: Offer >\$100.00 value	Must the offer be discussed with the relevant director or CEO before acceptance?	✓	
	Can the offer be accepted (in accordance with Policy)?	✓	
	Can the offer be accepted from an anonymous source?		✓
	Must the offer be registered on the Public Summary of the Gifts Register?	✓	
Official gifts: any value	Can the offer be accepted?	✓	
	Must the offer be registered on the Gifts Register?	✓	
	Must the offer be included on the Public Summary of the Gifts Register?	✓	

Hospitality		Yes	No
Modest / networking / conferences <\$50.00 value	Can the offer be accepted?	✓	
	Can the offer be accepted multiple times from the same person within a 12-month period?		✓
	Must the offer be registered on the Gifts Register?		✓
	Must the offer be included on the Public Summary of the Gifts Register?		✓

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Social, cultural and sporting events e.g. external sponsored events, tickets		Yes	No
Councillors, CEO and Directors	Can the offer be accepted, where there is no risk of Conflict of Interest? Directors must consult with CEO.	✓	
	Can the offer be accepted, where there is a risk of Conflict of Interest?		✓
	Must the offer be registered on the Gifts Register?	✓	
	Must the offer be included on the Public Summary of the Gifts Register?	✓	
Council Officers	Can the offer be accepted, if there is no risk of Conflict of Interest?		✓
	Can the offer be accepted, if there is a risk of Conflict of Interest? ? Must consult relevant director if wanting to accept.	?	✓
	Must the offer be registered on the Gifts Register?	✓	
	Must the offer be registered on the Public Summary of the Gifts Register?	✓	

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APPENDIX B - GIFTS, BENEFITS, HOSPITALITY REGISTRATION FORM

STEP 1 - This form should be completed by any **Councillor/Employee** who receives any Gift, Benefit, Gratuity or Hospitality in accordance with the provisions of the *Gifts, Benefits & Hospitality Policy and Procedure*.

Councillor / Employee Name:

Ward/Position Title:

DETAILS OF GIFT, BENEFIT, HOSPITALITY

Donor Name (Individual or Company)

Donor Address

Date of Receipt

Description of Gift, Benefit, Hospitality ²

Value to Council ³

Estimated Value in \$

I certify that to the best of my knowledge and belief, this return contains all the information available at the time the return is given, and it is correct.

Signature

Date

TREATMENT OF GIFTS, BENEFITS, HOSPITALITY

² Refer to procedure for gift descriptions. Any hospitality or benefit estimated to be in excess of \$100 must be reported in the same manner as a gift.

³ **Value to Council:** This is a short statement as to how accepting the gift, benefit or hospitality will benefit Council.

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Step 2 - This form should be referred for determination on the retention, use or allocation of any items or services received in accordance with the Policy & Procedure:

- Councillors should refer this form to the Mayor
- Staff members should refer this form to the appropriate Director or CEO

Unless otherwise determined, all gifts or gratuities remain the property of Council.

Determination outcome:

Retained by recipient

Allocated as follows:

Other:

Signature (Mayor/Director/CEO)

Date

INCLUSION IN GIFTS REGISTER

STEP 3 – Completed forms must be provided to the EA to CEO and Councillors who will record the details in the Gifts Register.

Entered in Gifts Register: Yes No

Entered in Public Summary on website: Yes No

Signature (EA to CEO and Councillors)

Date

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